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April 28, 2005

**VIA HAND DELIVERY
AND ELECTRONIC MAIL**

The Honorable Charles L.A. Terreni
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

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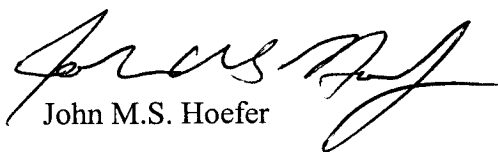
RE: Application of Carolina Water Service, Inc. for adjustment of rates
and charges for the provision of water and sewer service and
modification of rate schedules; Docket No. 2004-357-WS

Dear Mr. Terreni:

Enclosed for filing are the original and twenty-five (25) copies of the **Conditional Rebuttal Testimony of Steven M. Lubertozi** in the above-referenced docket. I would appreciate your acknowledging receipt of this document by date-stamping the extra copy that is enclosed and returning it to me via our courier delivering same. By copy of this letter, I am serving all parties of record and enclose my certificate of service to that effect. If you have any questions, or need additional information, please do not hesitate to contact us.

Sincerely,

WILLOUGHBY & HOEFER, P.A.


John M.S. Hoefer

JMSH/kwk
Enclosure

(Continued)

The Honorable Charles L.A. Terreni

April 28, 2005

Page 2

cc: C. Lessie Hammonds, Esquire
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(All via Hand Delivery and E-mail)

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2004-357-W/S**

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1 IN RE:)
2)
3 Application of Carolina Water Service,)
4 Inc. for adjustment of rates and charges)
5 and modification of certain terms and)
6 conditions for the provision of water and)
7 sewer service.)
8)
9 _____)

**CONDITIONAL REBUTTAL TESTIMONY
OF STEVEN M. LUBERTOZZI**

14 **Q. ARE YOU THE SAME STEVEN M. LUBERTOZZI THAT HAS PREFILED**
15 **DIRECT TESTIMONY IN THIS CASE?**

16 **A.** Yes, I am.

18 **Q. WHAT IS THE PURPOSE OF YOUR CONDITIONAL REBUTTAL**
19 **TESTIMONY IN THIS PROCEEDING, MR. LUBERTOZZI?**

20 **A.** The purpose of my conditional rebuttal testimony is to rebut the testimony of Jeffrey P.
21 deBessonnet on behalf of DHEC.

23 **Q. WHY IS THIS TESTIMONY BEING FILED AS "CONDITIONAL" REBUTTAL**
24 **TESTIMONY?**

25 **A.** The Company has filed a motion seeking to preclude Mr. deBessonnet's testimony. If
26 that motion is granted, this testimony would be irrelevant and would not be offered.

1 **Q. MR. DEBESSONET STATES THAT "THERE IS A PROVISION IN [CWS's]**
2 **RATE SYSTEM WHICH LIMITS CWS TO PASSING ON BULK**
3 **WASTEWATER CHARGES FROM A REGIONAL SEWER SYSTEM**
4 **PROVIDER TO ONLY AFFECTED CUSTOMERS; IS THIS A CORRECT**
5 **STATEMENT?**

6 **A.** No, it is not. Our current rate schedule does contain a provision which authorizes the
7 Company to pass-through a bulk water or sewer provider's charges "to the Utility's
8 affected customers on a pro-rata basis, without markup." As the Commission is aware,
9 the Company has not proposed any revision to this portion of our rate schedule. Mr.
10 deBessonnet's testimony tells me, however, that he does not understand how this provision
11 of our rate schedule works. For example, this provision does not mean, as Mr.
12 deBessonnet suggests, that the Company has an immediate right to implement a pass-
13 through. To the contrary, and as the Commission ruled in Order Number 95-1762 issued
14 December 28, 1995 in Docket Number 95-794-W/S, which dealt with our water and
15 sewer interconnections with York County, the Company cannot enter into or perform
16 under an interconnection agreement unless and until the Commission has given us
17 permission to do so. Until that occurs, there are no "affected customers" under the pass-
18 through provisions of the Company's rate schedule. DHEC is certainly aware of that fact
19 since Mr. deBessonnet's testimony acknowledges that the Commission has in the past
20 refused to give approval to interconnection agreements.

21
22 **Q. MR. DEBESSONET ASSERTS THAT DISAPPROVAL OF AN**
23 **INTERCONNECTION AGREEMENT BY THE COMMISSION WOULD CAUSE**
24 **THE COMPANY TO BE IN VIOLATION OF ITS NPDES PERMIT AND THE**
25 **FEDERAL CLEAN WATER ACT; DOES THE COMPANY HAVE AN**
26 **INTERCONNECTION APPLICATION PENDING?**

27 **A.** No, it does not. I would further note that all of the Company's NPDES permits are valid
28 as is reflected in Mr. deBessonnet's November 29, 2004 letter that is attached as Exhibit
29 "C" to our application.

1
2 **Q. IS MR. DEBESSONET'S DESCRIPTION OF THE EFFECT OF THE PASS-**
3 **THROUGH PROVISION WHEN AN INTERCONNECTION IS MADE, IN**
4 **COMPARISON TO THE MANNER IN WHICH THE COST OF REPAIRS TO**
5 **COMPANY FACILITIES ARE ASSIMILATED, ACCURATE?**

6 **A.** No, it is not.
7

8 **Q. WOULD YOU PLEASE ELABORATE ON YOUR LAST ANSWER?**

9 **A.** Yes. First, when the Company effects a "repair" to one of its facilities, it does not get
10 immediately passed on to customers as Mr. deBessonnet seems to believe. Rather, the
11 "cost" of a repair is ordinarily booked as an expense and claimed in the Company's next
12 rate case. The expense may or may not be allowed. The cost of an upgrade to treatment
13 facilities, which is the more appropriate comparison to make for purposes of Mr.
14 deBessonnet's point, is typically recorded as a capital expense and included in rate base.
15 Whether the Commission will deem the capital expenditure made as prudent is usually
16 determined in the context of a rate case. However, there are instances where the
17 Commission will determine the prudence of a capital expenditure in advance of it being
18 incurred. One example of that is when the Commission considers a request for approval
19 of an interconnection agreement and compares the cost of an interconnection versus the
20 cost of an upgrade.
21

22 **Q. DO YOU AGREE WITH MR. DEBESSONET THAT A PASS-THROUGH OF**
23 **BULK SERVICE CHARGES RESULTS IN CUSTOMERS HAVING "A BIG**
24 **RATE HIKE"?**

25 **A.** I cannot speak to this statement in quantitative terms because I do not know what Mr.
26 deBessonnet considers to be "big". Moreover, whenever there is an interconnection
27 approved, the rate charged by the Company to our customer actually goes down.
28 However, it is certainly correct that in most instances, an approved interconnection
29 agreement will result in an affected customer's total bill being higher than it was when

1 the treatment service was supplied by the Company. But that higher rate is a function of
2 the bulk rate charged by the governmental entity providing bulk service under a 208 Plan.
3 One of the Company's difficulties with DHEC's position on our pass-through provision
4 is that DHEC simply ignores the fact that bulk service rates offered by governmental
5 utilities are completely unregulated. As has already been mentioned in this case,
6 municipal utilities have no restraints on their "out-of-town" rates. Under a 208 Plan
7 where a governmental entity is the "regional system" like Mr. deBessonnet refers to, it
8 has no incentive to offer a reasonable rate for its bulk service or tap fees.

9
10 **Q. WHAT COMMENT, IF ANY, DO YOU HAVE ON MR. DEBESSONNET'S**
11 **DISCUSSION OF THE 208 PLANNING PROCESS AT PAGE 3 OF HIS**
12 **TESTIMONY?**

13 **A.** It is interesting to me that Mr. deBessonnet fails to apprise the Commission that there is at
14 least one 208 Plan approved by a local council of government that calls for a non-
15 governmental entity to operate a regional system and that DHEC is opposing
16 implementation of that plan.

17
18 **Q. COULD YOU BE MORE SPECIFIC?**

19 **A.** Yes. In 2001, the Central Midlands Council of Governments, or CMCOG, approved an
20 amendment to its 208 Plan which designates the Company's I-20 wastewater treatment
21 facility as a regional system. As the Commission may be aware, a regional council of
22 governments is created by statute to aggregate planning functions for local governments
23 and certain public utilities on a regional basis. Included in this planning function are
24 water quality management plans required under Section 208 of the federal Clean Water
25 Act. Under the CMCOG 2001 amendment to its 208 plan, the Town of Lexington is
26 supposed to interconnect with our upgraded I-20 plant and receive bulk treatment service
27 from the Company. DHEC, however, refused to certify that plan amendment to the EPA
28 and the Company, along with CMCOG and the Town of Lexington, instituted a
29 proceeding before the Administrative Law Court to challenge DHEC's authority in that

1 regard. The Administrative Law Court ruled against DHEC, which then appealed that
2 decision to its Board. The DHEC Board reversed the Administrative Law Court and the
3 matter is now on appeal. Given that, it is difficult for me to see how DHEC can come
4 before this Commission and complain about the pass-through provision in our rate
5 schedule hampering implementation of 208 plans when DHEC has shown itself quite
6 willing to interfere with the long range water quality planning that CMCOG has approved
7 in the 2001 amendment to its 208 Plan.
8

9 **Q. REGARDING MR. DEBESSONET'S ANALYSIS OF THE COMPANY'S RATE**
10 **DESIGN, DO YOU AGREE THAT THE CROSS SUBSIDIES INHERENT IN ITS**
11 **FLAT SEWER RATES JUSTIFY ELIMINATING THE PASS-THROUGH**
12 **PROVISION OF ITS RATE SCHEDULE?**

13 **A.** No, I do not.
14

15 **Q. WHY DO YOU DISAGREE WITH MR. DEBESSONET'S ANALYSIS?**

16 **A.** I have several reasons. First, regardless of whether or not there is a pass-through
17 provision in our rate schedule, the Company cannot perform under an interconnection
18 agreement unless it has been approved by the Commission. DHEC seems to be under the
19 mistaken impression that the elimination of the pass-through provision will automatically
20 entitle the Company to incur bulk rate charges as part of our total cost of service and then
21 spread that out among all customers. That is simply not the case. Second, the pass-
22 through provision informs the Commission and our customers of the impact a bulk
23 service charge will have in the event an interconnection agreement is approved. This, in
24 turn, provides a means by which customers may be protected from unreasonable bulk
25 rates. Fourth, spreading the impact of an unreasonably high bulk rate out among all our
26 customers, as Mr. deBessonnet urges, would not necessarily make that rate any more
27 palatable from a ratemaking perspective. In addition to other customers necessarily
28 experiencing higher rates as a result of the redistribution of costs, an interconnection
29 typically causes early retirement of plant that has remaining useful life that is stranded.

1 Added to that is the capital cost of the interconnection and the extraordinary retirement
2 expense that the Company incurs. The Commission has expertise in rate setting that
3 DHEC lacks both from a legal and practical standpoint. That expertise has to be used to
4 balance the interests of the Company and our customers – not DHEC’s parochial interest
5 in forcing outcomes in 208 planning situations. Fifth, the ability of governmental service
6 providers to set and increase bulk service rates unrestrained by any regulatory authority is
7 a special circumstance and condition that justifies a Commission approved rate design
8 that departs from a uniform rate structure. Finally, DHEC has the opportunity to advance
9 its arguments regarding the propriety of our rate design and the suitability of proposed
10 bulk rates for inclusion in our total cost of service every time that we file an application
11 for approval of an interconnection agreement. They have done so in the past and can do
12 so again in the future. Consistent with previous decisions of the Commission rejecting
13 DHEC efforts to raise this issue in rate cases, we think an interconnection proceeding is
14 the only appropriate time for this issue to be raised and treated.

15
16 **Q. DOES THAT CONCLUDE YOUR CONDITIONAL REBUTTAL TESTIMONY?**

17 **A.** Yes, it does.

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CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of Conditional Rebuttal

Testimony of Steven M. Lubertozi, via e-mail and hand delivery addressed as follows:

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Kristina W. Kusa

Columbia, South Carolina
This 28th day of April, 2005.